



## Office of the Attorney General

State of Texas

November 9, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Robert E. Luna  
4411 Central Building  
4411 N. Central Expressway  
Dallas, Texas 75205

OR92-648

Dear Mr. Luna:

The Carrollton-Farmers Branch Independent School District, which you represent, has received a request for certain information under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16921.

The information requested consists of the name, date of birth, social security number, date of employment, and job description of every employee of the district. The district will divulge all of the requested information in its possession except for social security numbers. You claim that social security numbers are excepted from disclosure by section 3(a)(1) of the Open Records Act as "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Open Records Decision No. 169 (1977) held that social security numbers are not excepted from disclosure under the Open Records Act. According to this decision, you must release the social security numbers of district employees. *See also* Open Records Decision No. 226 (1979) (social security numbers on W-2 forms are open to the public). However, you suggest that Open Records Decision No. 169 is incorrect in finding that the general public has a right of access under the Open Records Act to the social security numbers of public employees.

You argue that social security numbers have been deemed confidential by law, citing *Swisher v. Department of the Air Force*, 495 F.Supp. 337 (W.D. No. 1980), *aff'd* 660 F.2d 396 (8th Cir. 1981), as authority for this proposition. *Swisher* addressed the report of an investigation in which the witnesses interviewed during the investigation were identified by social security number. The district court determined that it would be a "clearly unwarranted invasion of privacy" to disclose information that identified the witnesses, *i.e.*, the social security numbers. On appeal, the plaintiff abandoned his attempt to get the social security numbers. 660 F.2d 369. *Swisher* does not hold that social security numbers are inherently

confidential information. Its ruling is based on different facts than those before us. It withheld social security numbers because they would identify witnesses whose identities were confidential, while you make no argument for withholding the names and other identifying information about the school district's employees.

Moreover, the highest court in Oregon has held that social security numbers of public employees are not confidential under the state public records act, the federal Privacy Act, 5 U.S.C.A. § 552a note, or the Social Security Act, 42 U.S.C.A. § 405(c)(2)(C)(iii). We see no reason for reconsidering the conclusion of Open Records Decision No. 169 that social security numbers of public employees are available pursuant to the Open Records Act, except for social security numbers within the narrow exception found in section 3(a)(17)(B) of the Open Records Act. V.T.C.S. art. 6252-17a, § 3(a)(17)(B) (express exception for social security numbers of Department of Criminal Justice employees and their family members). Accordingly, the Carrollton-Farmers Branch Independent School District must disclose the social security numbers of its employees pursuant to the open records request.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-648.

Yours very truly,

A handwritten signature in cursive script that reads "Susan L. Garrison".

Susan L. Garrison  
Assistant Attorney General  
Opinion Committee

SLG/lmm

Ref.: ID# 16921

cc: Mr. Allen Pusay  
Associate Projects Editor  
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